

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

ROBERT THOMAS MAXWELL/G-DOFFEE
ADC #108778

PLAINTIFF

v.

No. 5:13-cv-291-DPM-JJV

RICHARD CLARK, Sgt., ADC Maximum
Security Unit, and RODERICK L. COOKSEY, JR.,
Corporal, ADC Maximum Security Unit

DEFENDANTS

ORDER

1. Motion, *No. 147*, granted as modified. Motions in limine due by 29 July 2016; responses due by 5 August 2016. Pre-trial disclosures, trial briefs, and jury instructions due by 10 August 2016.

2. The Court has previously referred to Maxwell/G-Doffee's first claim as an excessive force claim; and many of the acts described in his complaint fit that framework. But acts that never serve a legitimate penological purpose—like sexual assault—are better submitted in terms of deliberate indifference. *E.g., Whitley v. Albers*, 475 U.S. 312, 320–21 (1986). The Court asks the parties to think about this distinction and address it in their proposed instructions and pre-trial submissions.

So Ordered.

D.P. Marshall Jr.

D.P. Marshall Jr.
United States District Judge

15 July 2016